

**REMARKS**

**A.) The Claims are Patentable Over the Combination of Bork and Fumarolo**

In the Final Office Action, the Examiner repeats his rejection of claims 3-5, 19 and 30-37 under 35 U.S.C. §103(a) as being unpatentable over Fumarolo et al., U.S. Patent No. 6,204,844 ("Fumarolo") in view of Bork et al., U.S. Patent No. 6,246,376 ("Bork"). Applicants disagree and traverse these rejections for at least the following reasons.

Each of the claims of the present invention includes the features of: (a) the transmission of a first Bluetooth signal; (b) the detection of a plurality of second Bluetooth signals, each containing GPS coordinates of at least one nearby device; and (c) the selection of a nearby device associated with one of the detected signals to communicate with based on the received GPS coordinates.

As the Applicants presently understand the §103 rejections, the Examiner is relying on Fumarolo for all the features of the claims except the disclosure of a Bluetooth signal. The Examiner relies on Bork for the disclosure of a Bluetooth signal.

Applicants note, however, that Fumarolo does not disclose features (a)-(c) set forth above. For example, though the Examiner states that Fumarolo "clearly shows the selection of a device to communicate with" (see page 3 of the Final Office Action, line 6), Applicants disagree. Fumarolo does not select any particular device to communicate with. Instead, Fumarolo discloses the grouping of devices into "talk groups". Said another way, the selection in Fumarolo is not of a nearby device, but of a talk group. Fumarolo's talk groups do not equate to, and are not suggestive of, the claimed nearby devices of the present invention.

In addition, Fumarolo makes a selection in order to group communication units together so that they may communicate with one another in the future in order "to handle an incident (e.g., accident) displayed on [an

associated] map” (see Fumarolo column 14, lines 5-10). Thus, the selection of a talk group in Fumarolo is based on whether the communication units in the group desire to handle an incident, regardless of their location, GPS coordinates or whether they are nearby. Fumarolo’s use of GPS information is to locate the device, not to select a nearby device to communicate with.

Bork does nothing to make up for the deficiencies of Fumarolo.

Accordingly, Applicants respectfully submit that the subject matter of claims 3-5, 19 and 30-37 would not have been obvious to one of ordinary skill in the art at the time the application was filed upon reading the combination of Fumarolo and Bork.

Applicants would respectfully request reconsideration, withdrawal of the rejections and allowance of claims 3-5, 19 and 30-37.

**B.) The Combination of Fumarolo and Bork is Improper**

In the Final Office Action, the Examiner takes the position that the combination of Fumarolo and Bork is proper because: (1) “one of ordinary skill in the art at the time the Applicants invention working through Fumarolo’s system would clearly have had knowledge of Bork’s system since Bork’s system is a similar communications network that also utilizes a mobile communication unit to provide an indication of a location of a second unit”; and (2) “since GPS data concerning other devices can be sent to a communication unit in Fumarolo’s system, one of ordinary skill in the art would have thought it obvious to use alternative’s methods of transferring GPS data to a communication unit such as via Bluetooth as presented by Bork”. Applicants respectfully disagree.

One of ordinary skill in the art would realize that the particular Bluetooth based system in Bork could not be used in the system of Fumarolo because such a Bluetooth system would most likely not have the distance or range needed to carry out the principle of operation of Fumarolo.

Accordingly, Applicants respectfully submit that the combination of Fumarolo and Bork is improper for these reasons and for the reasons set forth in the Applicants' previous responses.

**C.) Entry of this Request for Reconsideration After Final Rejection**

Entry of this Request for Reconsideration ("Request") is respectfully solicited because the Request: (a) places the application in condition for allowance for the reasons discussed herein; (b) does not raise any new issues regarding further search and/or consideration; (c) does not present any additional claims without canceling the corresponding number of filing rejected claims; and (d) places the application in better form for appeal, if an appeal is necessary. Entry of this Request is thus respectfully requested.

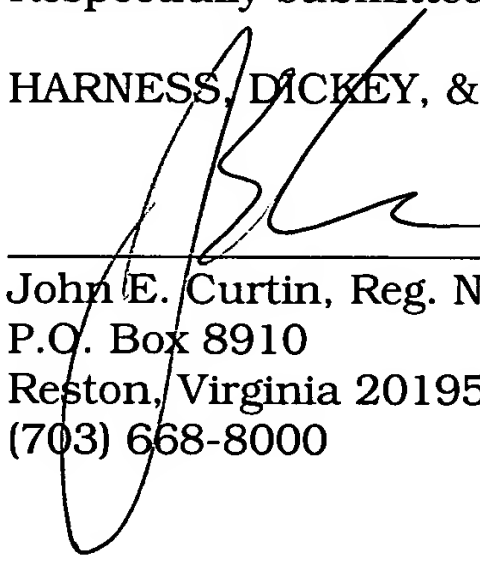
In the event this Request does not place the present application in condition for allowance, applicant requests the Examiner to contact the undersigned at (703) 668-8000 to schedule a personal interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By



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